

IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF UTAH, IN AND
FOR UINTAH COUNTY

EBENEZER G. DEFRIEZ, et al,

:

Civil No. 18

Plaintiffs,

:

vs.

:

SUPPLEMENTAL DECREE

ASHLEY CENTRAL IRRIGATION
COMPANY, et al,

:

Defendants,

:

ASENITH CHADWICK, et al,

:

Intervenors

:

:

This matter came on regularly for hearing on the joint Petition of Mosby Irrigation Company, Ashley Upper Irrigation Company, Ashley Central Irrigation Company, Rock Point Canal and Irrigation Company, Island Ditch Company, Colton Ditch Company, Dodds Ditch Company and Dry Fork Irrigation Company before the above entitled Court on the 12th day of August, 1964, the Honorable Joseph E. Nelson, District Judge, presiding; the Mosby Irrigation Company appeared by and through its attorney, Joseph Novak, of Salt Lake City, Utah, Ashley Upper Irrigation Company, Ashley Central Irrigation Company, Island Ditch Company, Colton Ditch Company, Dodds Ditch Company, Dry Fork Irrigation Company, Highline Canal Company and Uintah Water Conservancy District, individually and collectively, appeared by and through their attorney, Hugh W. Colton, of Vernal, Utah, Ashley Valley Reservoir Company appeared by and through its attorney, Ray E. Nash, of Vernal, Utah, Rock Point Canal and Irrigation Company appeared by and through its attorney, John C. Beaslin, of Vernal, Utah, and Wayne D. Criddle, as State Engineer of the State of Utah, appeared by and through his attorney, Dallin W. Jensen, Assistant Attorney General, of Salt Lake City, Utah; and

It appearing to the Court and the Court now finds that, pursuant to and in accordance with the Order of this Court made and entered on the 8th day of July, 1964, notice of the hearing on said

Petition (1) was duly published in the Vernal Express, Vernal, Utah, a newspaper of general circulation in Uintah County, Utah, in two successive weekly issues thereof beginning July 16, 1964 and ending July 23, 1964, and that proof of publication thereof has been filed herein and (2) was mailed by the Clerk of this Court by regular mail with postage prepaid and deposited in the United States Post Office on the 22nd day of July, 1964 to each person who diverts water or claims the right to divert water from Dry Fork Creek and Ashley Creek below its confluence with Dry Fork Creek at their last known address from the list compiled by and submitted to the Clerk of this Court by the State Engineer of the State of Utah, and that the Clerk's certificate of mailing has been filed herein; and

It further appearing to the Court and the Court now finds that the parties to said joint Petition and others entered into and filed in open Court a Stipulation, in writing, fixing and determining the rights of the Mosby Irrigation Company to the use of a portion of the waters of the drainage of Dry Fork Creek, a tributary to Ashley Creek; and the Court having announced in open Court for any and all objections to the granting of the said joint Petition herein, and no one having objected thereto; and the Court being fully advised in the premises hereby approves said written Stipulation and upon motion of the parties to said joint Petition and good cause appearing therefor

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That Mosby Irrigation Company be, and it is hereby awarded the first and prior right to divert and use from the natural flow waters of Dry Fork Creek at Blancett Park as follows:

(a) Thirty (30) second feet of water during the months of May and June, inclusive, of each year;

(b) Twenty (20) second feet of water during the month of July of each year; and

(c) Ten (10) second feet of water during the months of August, September and October, inclusive, of each year.

The quantities of water hereinabove provided for shall be measured at the point of diversion from Dry Fork Creek into the Mosby Canal at Blancett Park.

2. That Mosby Irrigation Company be, and it is hereby awarded the first and prior right to store the first one thousand (1,000) acre feet of the waters of Dry Fork Creek at Blancett Park during the period from November 1 to the end of the high water period of the year following, inclusive, but not later than June 30, in a reservoir having a capacity of up to one thousand (1,000) acre feet to be constructed across the natural channel of Dry Fork Creek at Blancett Park, and to release and use the waters so stored during the period from May 1 to October 31, inclusive. The end of the high water period shall be when the flows of Ashley Creek and Dry Fork Creek, after once having reached their respective maximum peak flows, shall have then receded to the flow or flows necessary to satisfy the present existing direct flow rights on said Ashley Creek and/or Dry Fork Creek. The waters awarded in this paragraph shall be in addition to the waters awarded in the preceding paragraph 1.

3. That Mosby Irrigation Company be, and it is hereby awarded the first and prior right to all of the natural inflow waters accumulating in the Mosby Canal in addition to the quantities of water awarded in paragraphs 1 and 2 hereinabove.

4. That Mosby Irrigation Company be, and it is hereby awarded the right to construct a reservoir at Julius Park with an approximate capacity of one hundred sixty-five (165) acre feet, to be used as the Mosby Irrigation Company shall see fit to store, equalize and/or distribute the waters awarded to it in the preceding paragraphs 1, 2 and 3.

5. That the parties hereto shall have the right to do all things necessary or required by law and/or the Utah State Engineer to perfect and establish the rights to the use of the waters hereinabove awarded, and the parties hereto shall cooperate and assist in reaching the objectives herein provided for.

6. That Mosby Irrigation Company shall relinquish any and all its claims to the waters of the Dry Fork Creek drainage in excess of the rights hereinabove awarded, including but not limited to all applications for waters from Twin Lakes Creek.

7. That the terms and provisions of this Supplemental Decree shall become effective and binding immediately upon the entry herein; provided, however, that the distribution of the waters under the terms hereof shall not commence until (1) January 1, 1967 or (2) immediately upon the completion of the proposed pipeline to be constructed around the Dry Fork Sinks under the proposed Dry Fork Project, whichever date is the earlier; and provided, further, that until such date the distribution of the waters involved herein shall continue as in the past.

8. That this Decree shall be supplemental to the final Decree made and entered herein on the 17th day of November, 1897 and all orders made and entered herein subsequent thereto, and that this Decree shall fix and determine the rights of the Mosby Irrigation Company to the use of a portion of the waters of the drainage of Dry Fork Creek, a tributary to Ashley Creek, relative to the rights of the parties awarded in said Decree dated November 17, 1897 and relative to the rights to the use of the waters of Ashley Creek and/or Dry Fork Creek of the parties to this Supplemental Decree.

Dated this 28th day of August, 1964.

BY THE COURT

Joseph E. Nelson
Judge

Recorded in Civil Judgment
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Morris R. Cook
Clerk.

By Lerna L. Mayberry
Deputy Clerk.

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